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No. 857

THE SUPREME COURT

OF THE UNITED STATES

OTTO BURGDORF,

Petitioner,

vs.

STATE OF CALIFORNIA
ALAN CRANSTON, CONTROLLER
OF THE STATE OF CALIFORNIA,
DOES ONE THRU TWENTY,

Respondents.

PETITION FOR WRIT OF CERTIORARI

OTTO BURGDORF
Route 2, Box 680
Woodland, California

In Prop.
Persona,
Petitioner

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Counsel for
Defendants

THE SUPREME COURT

OF THE UNITED STATES

OTTO BURGDORF,	)
	)
Petitioner,	)
	)
vs.	)
	)
STATE OF CALIFORNIA,	)
ALAN CRANSTON, CONTROLLER	)
OF THE STATE OF CALIFORNIA,	)
DOES ONE THRU TWENTY,	)
	)
Respondents.	)
	)

PETITION FOR WRIT OF CERTIORARI

This petition is entered pursuant to United States Code, Title 28, Sections 1654 and 2101 and Rule 19(b) of the Revised Rules of the Supreme Court of the United States.

The grounds upon which the jurisdiction of the United States Supreme Court is based are the 5th and 14th Amendments of the United States Constition which are violated by a decision of the Superior Court in and for the County of Sacramento, State of California.

This said decision was affirmed by the Third Appellate District Court of the State of California. A petition for a hearing of this case directed to the California Supreme Court was denied by this latter court.

The order denying this petition for hearing was filed on September 29, 1965.

Jurisdiction of the United States Supreme Court to review the judgment in question by a writ of certiorari is based on 28 USC, Section 1257.

The refusal of the State of California to return money collected by this state thru motor fuel distributors from petitioner forms the basis for this legal action.

The facts surrounding this case are related in some detail in appellant's opening brief beginning at the bottom of page 4.

The legal grounds on which this action was brought was violation of:

1. The "due process of law clause" of the 14th Amendment of the United States

Constitution.

2. The "just compensation clause" of the 5th Amendment of the said constitution, besides the legal grounds contained in the California Constitution.

The Sacramento Superior Court sustained a demurrer interposed by the Attorney General based on Section 8148 of the California Revenue and Taxation Code. The test of this section is found on the bottom of page 3 of appellant's opening brief to the Third District Appellate Court of the State of California.

The record of these proceedings can be found in the accompanying Clerk's Transcript.

Petitioner appealed to the District Court of Appeal on the ground that the provisions of the United States Constitution control and that the statute of limitation was being misused.

Said District Court of Appeal affirmed the decision of the Sacramento Superior Court on the basis of the interposed demurrer